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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/675,976	09/29/2000	Keith Shippy	042390.P7957	1732

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EXAMINER
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LIPMAN, JACOB

ART UNIT	PAPER NUMBER
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2134

DATE MAILED: 01/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/675,976

Applicant(s)

SHIPPY ET AL.

Examiner

Jacob Lipman

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30, 39 and 40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30, 39 and 40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Specification***

1. The amendment filed 7 December 2005 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material, which is not supported by the original disclosure, is as follows: The PCX module being configured to process disparate data stream protocols in claim 9 is new matter.

Applicant is required to cancel the new matter in the reply to this Office Action.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 9 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The PCX module being configured to process disparate data stream protocols is new matter. Applicant gave no reference to where this limitation could be found in the original specification. The examiner was unable to find any reference to this limitation in the original specification.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 9-16 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps are: steps leading to the data block in claim 9 to be a decrypted data block. A data block and decrypted data block are not different. The claim seems to be referencing a method step that has not been claimed. The term "decrypted data block" will be treated as "data block" in this office action.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 9-16, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Cooper et al., US Patent number 5,757,908.

With regard to claims 9 and 14, Cooper discloses a computer (column 3 lines 50-53), which encrypts a payload (column 3 lines 55 -57), replaces a portion of the payload with a tag (column 3 lines 57-63) that identifies a decryption key (column 4 lines 16-20), and sets a flag in a header that indicates that the payload has the tag (column 17 lines 17-23). Cooper discloses that the payload can be sent over a network (Column 9 lines 13-18).

With regards to claim 10, Cooper discloses encrypting the portion (column 3 lines 57-59).

With regard to claims 11-13, Cooper discloses that in response to finding the data block, the file management program loads the decryption key and decrypts the file (column 4 lines 10-22).

With regard to claim 15, cooper discloses the system can be a network of computers (column 21 lines 12-44).

With regard to claim 16, Cooper discloses the tag includes a data-stream identifier having information to access a key (column 4 lines 10-15).

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-8, 17-30, and 39-40 rejected under 35 U.S.C. 103(a) as being unpatentable over Schulhof et al., USPN 5,572,442, in view of Cooper.

As mentioned above, Cooper discloses a computer (column 3 lines 50-53), which encrypts a payload (column 3 lines 55 -57), replaces a portion of the payload with a tag (column 3 lines 57-63) that identifies a decryption key (column 4 lines 16-20), and sets a flag in a header that indicates that the payload has the tag (column 17 lines 17-23). Cooper discloses that the payload can be sent over a network (Column 9 lines 13-18). Cooper does not disclose that the payload is decrypted after being received from a

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protocol-specific device (third party). Cooper does not disclose where the payload is received from. Schulhof discloses that media to be stored on portable media is often received from a third party and is sent encrypted over a communication channel, specifically in Schulhof, cable television (column 11 lines 42-55). The examiner also takes official notice that information is frequently sent encrypted over communication channels, such as the Internet. It would have been obvious for one of ordinary skill in the art to use Schulhof's secure sending of information to send Cooper's software package from the software designer to the software vendor to keep it secure.

### ***Response to Arguments***

10. Applicant's arguments filed 7 December 2005 have been fully considered but they are not persuasive.

Applicant argues that a decrypted data block is different than a data block. The fact that a data block "may not be identical to the original unencrypted data block" does not change the fact that it is currently just an unencrypted data block itself. Applicant's argument that Cooper does not teach blocks that have been previously decrypted further shows that it is unclear if method steps are implied by calling the data block a decrypted data block. If applicant wishes to claim decryption of an encrypted data block, it must be clear in the claims.

Applicant further argues that Cooper does not teach a "decrypted data stream received from a source device". This limitation, found in claim 1, is not rejected over Copper alone, but in an obvious combination with Schulhof.

Applicant further argues "applying the teachings of Cooper to Applicants' invention will result in an operating system level decoder". The rejection of a claim does not apply a teaching to applicants' invention. It merely shows that the claimed invention reads on previously known art.

Applicant argues that Cooper does not teach re-encrypting. Cooper teaches encryption, which is the same.

Applicant argues that combining Schulhof and Cooper would result create a situation equivalent to retrieving an open data stream, and not a decrypted on. Applicant admits in the prior paragraph that the data stream from Schulhof is decrypted. It is well known to one of ordinary skill in the art that a decrypted data stream is equivalent to an open data stream.

### ***Conclusion***

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

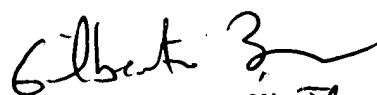
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12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacob Lipman whose telephone number is 571-272-3837. The examiner can normally be reached on M-Th 7 AM-3 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Morse can be reached on 571-272-3838. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JL

  
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